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10/642,937

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EXAMINER

YOO, JASSON H

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/642,937 | Applicant(s) NGUYEN ET AL. | |
| | Examiner JASSON H. YOO | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-15,17-21,24-29 and 61-68 is/are pending in the application.
- 4a) Of the above claim(s) 10-12,27-29,65 and 66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9,13-15,17-21,24-26,61-64,67 and 68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/20/09, 7/16/09</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/16/09 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-9, 13-15, 17-21, 24-26, 61-62, 64, 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker'163 (US 6,077,163) in view of Shulman (US 2002/0123377).

Claims 1, 61 and 62. Walker'163 discloses a computer implement gaming method comprising and computer readable medium including computer executable program code for instructing a computer comprising (col. 3:63-4:5):

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configuring a first gaming unit for playing a game (102 in Figs 1-2B), the first gaming unit being selected by a player to play in the game, comprising loading gaming software to said first gaming unit (The electronic gaming unit 102 loads and executes the gaming software to play the game, cols. 3:63-4:5);

receiving an identifier (player game identification information stored on player tracking card, cols. 4:45-49, 6:1-12) at a controller comprising a processor and a memory from said first gaming unit (CPU 210 and Memory 216 and 218 in Fig. 2A), wherein the identifier is associated with a game card (player tracking card, cols. 4:45-49), and wherein the game card is provided to the player in response to paying fee (Player tracking game card is associated with player paid credit information, cols. 3:36-39, 6:5-6);

determining whether the identifier received from the first gaming unit is authentic (network server verifies the player identifying information, col. 3:54-56);

determining a time duration the player may play in the game based on the identifier, if the identifier is determined to be authentic (flat rate, time session is determined, cols. 3:6-17, 6:36-55);

enabling the first gaming unit to play the game for the time duration if the identifier is determined to be authentic, thereby allowing the player to use the first gaming unit to play the game (cols. 2:3-27, 3:54-62);

receiving a score of the player (an outcome and the associated payout is received, col.4:6-61);

determining a winning player of the game if any (col. 4:6-61); and

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if the winning player of the game is determined, generating data indicative of a value payout to be awarded to the winning player (When the player wins, the machine stores the credits RAM 18 and displays the current balance in the video display area, col. 4:20-26).

Walker'163 discloses a computer implement gaming method as discussed above but fails to teach the game is a tournament, wherein the tournament is in progress when the identifier is received, and the player plays in the time remaining the tournament in progress. Nevertheless, it would have been obvious to modify Walker'163 of playing a flat rate game session, and play the flat rate game session on a game tournament in progress, and play for time remaining in the tournament. In an analogous art to methods of play games, Shulman discloses a method of allowing a player to play in a tournament in progress, based on the time remaining in the tournament. More specifically, Shulman discloses a player can join the tournament after observing the tournament that's in progress (paragraphs 12, 16-18, and 31). The player can conveniently select the time periods during which the player will participate in the tournament (paragraph 12). The player can play in the tournament until the tournament ends. This allows the player to observe the game, including the type of players, their betting habits, and the aggressiveness of their play before joining the tournament (paragraph 16). Although Shulman's of playing a tournament game may be based on a poker game, Walker explicitly discloses that the method of playing a flat rate session may be implemented to poker games (video poker/poker slot machines, col. 18:7). Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify

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Walker'163 method of playing a game, and incorporate Shulman's method of playing in a tournament in progress for the time remaining in the tournament, in order to allow a player to participate in a tournament after the player has observed the game.

Claim 2. The combination of Walker'163, and Shulman discloses the identifier is printed on the tournament game card (Walker'163, col. 4:42-53).

Claim 3. The combination of Walker'163, and Shulman discloses the identifier is electronically encoded on the tournament game card (Walker'163, col. 4:42-53).

Claims 6, 24. The combination of Walker'163 and Shulman discloses determining the duration based on the identifier comprises retrieving the duration from storage based on the identifier (Walker'163, col. 3:6-39; cols. 6:49-7:20).

Claims 7, 25. The combination of Walker'163, and Shulman discloses determining the duration based on the identifier comprises decoding the identifier to determine the duration (Walker'163, cols. 3:6-39, 4:42-65).

Claim 8, 26. The combination of Walker'163, and Shulman discloses the duration comprises an amount of time, the method further comprising: initializing a timer with the determined amount of time; starting the timer; wherein enabling the first gaming unit comprises enabling the first gaming unit for play in the tournament while the timer is

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running; stopping the timer after the timer has run for the determined amount of time (Walker'163, cols. 5:5-14, 12:43-51, 13:5-55).

Claim 9. The combination of Walker'163, and Shulman discloses stopping the timer at a request of the player; and restarting the timer at a request of the player if the timer has not run for the determined amount of time (Walker'163, cols. 5:5-14, 12:43-51, 13:5-55).

Claim 13. The combination of Walker'163, and Shulman discloses a gaming method according to claim 8, wherein the timer is implemented, at least in part, by the first gaming unit (Walker'163, 12:43-51).

Claim 14. The combination of Walker'163, and Shulman discloses the first gaming unit is operatively coupled to the tournament game card, wherein the timer is implemented, at least in part, by the tournament game card (player tracking device is associated with player credits/flat rate remaining, Walker'163, cols. 5:5-14, 12:43-51, 13:5-55).

Claim 15. The combination of Walker'163, and Shulman discloses the timer is implemented, at least in part, by the tournament server (database server keeps track of player credits/and flat time remaining, Walker'163, cols. 5:5-14, 12:43-51, 13:5-55).

Claim 17. The combination of Walker'163, and Shulman discloses the gaming software comprises at least one of an executable file, a configuration file, a data file, a pay table, and a plurality of seeds for a random number generator (Walker'163 discloses gaming software stored in memory to execute slot game, col. 3:63-4:5. The program inherently comprises executable file, a configuration file, a paytable, and a plurality of seeds for a random number generator stored. Furthermore, Walker'163 discloses a RNG, col. 4:4-5, and a paytable 228 store in memory, col. 4:17, and Fig. 6.).

Claim 18. The combination of Walker'163, and Shulman discloses the tournament game card comprises at least one of a magnetic swipe card, a smart card, a PC card, and a portable memory device (Walker'163, col. 4:43-53).

Claim 19. The combination of Walker'163 and Shulman discloses receiving the tournament score of the player before the timer has stopped (Duration is based on score/winning outcomes. Thus the individual scores are tracked before the timer has stopped, Walker'163, col. 3:6-30.).

Claim 20. The combination of Walker'163 and Shulman discloses receiving the tournament score of the player after the timer has stopped (Scores are received after the end of the game player to award the winning player).

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Claim 21. See rejection for claim 1. More specifically, Walker'163 discloses the structural limitation of a server (106 in Figs.1 and 3) comprising:

a network interface (360 in Fig. 3),

a controller comprising a processor (310 in Fig. 3) and memory (320, 330 in Fig. 3) to store a game program and operate the game (col. 5:34-63). Shulman discloses a tournament server (processing station 20 in Fig. 1) for operating a tournament game.

Claim 64. The combination of Walker'163, and Shulman discloses determining whether the tournament identifier has been received within an acceptable time window allocated for tournament play (The player can provide the identifier and enter the tournament when the tournament beings and until the tournament ends).

Claim 67. See rejection for claims 1 and 21 above. More specifically, Walker'163 discloses the structural limitation of a computing system (100 in Fig. 1) including or more processors (within each gaming machine 21 in Fig. 2a, and within the server 310 in Fig. 3).

Claim 68. Walker'163 discloses the computing system includes a gaming machine (102 in Fig. 1) and a gaming server comprising the controller (106 in Fig. 3).

Claims 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker'163 in view of Shulman as applied to claim 62 above, and further in view of Walker'173 (US 2002/0013173),

Claim 63. The combination of Walker'163 and Shulman discloses the claimed invention as discussed above, but fails to teach the first gaming unit is not configured for playing in the tournament when the first gaming unit is selected by the player, wherein the tournament is in progress when the identifier is received, and configuring the first gaming unit for playing in the tournament in response to receiving the identifier when the identifier is determined to be authentic, thereby allowing the player to use the first gaming unit to join the tournament is progress. Nevertheless, it would have been obvious to one of ordinary skilled in the art to configure a gaming machine to play a particular game that is not originally configured. In an analogous art to playing games on a gaming machine, Walker'173 discloses a method of configuring a gaming machine (paragraphs 28, 69) upon an identifier (paragraphs 67-68). The identifier or identification number is associated with a player tracking card (paragraph 67). After the player identification number is then authenticated (paragraphs 35, 67), the gaming machine is configured according the player's information (paragraphs 28, 69-78). The player information may configure the gaming machine to play certain games (game eligibility, paragraphs 28, 48, 62). When modifying Walker'163 in view of Shulman's method of playing a tournament with Walker'173's method of configuring gaming machines that were not originally configured, gaming machines that are not configured to play in the

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tournament will now be configured to play in the tournament. Thus, the player can play on any gaming machine within the casino or gaming center. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify the method of playing a tournament game as suggested by the combination of Walker'163 and Shulman, and incorporate Walker'173's method of configuring a gaming machine, in order to allow users play a tournament game using any gaming machine within the casino.

Response to Arguments

Applicant's arguments filed 7/16/09 have been fully considered but they are not persuasive.

Regarding claims 1-9, 13-15, 17-26, 61, 62, 65, and 67-68 rejected under 35 USC 103(a) as being unpatentable over Walker'163 in view of Shulman, applicant argues that there is no reference or passage or cite by the examiner that teaches that a gaming unit selected is first configured for playing in a tournament when a tournament is in progress, and after an identifier is received of the player, and remaining playing time is determined, the gaming machine is enabled to play in a tournament thereby allowing a player to use the gaming units to join the tournament. However, the combination of Walker'163 and Shulman discloses a gaming unit selected is first configured (Walker discloses the electronic gaming unit 102 loads and executes the gaming software to play the game when the gaming unit is selected for play, cols. 3:63-4:5) for playing in a tournament when a tournament is in progress (Shulman discloses playing in a

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tournament when a tournament is in progress, paragraphs 12, 16-18, and 31), and after an identifier is received of the player (Walker'163 discloses identification information stored on player tracking card is received, cols. 4:45-49, 6:1-12.), and remaining playing time is determined (Walker'163 discloses the remaining playing time according to the flat rate session and player's identification/account is determined, col. 6:36-55. More specifically, Walker'163 discloses determining game time duration that the player may play in the game, cols. 3:6-17, 6:36-55. Shulman teaches the game is a tournament in progress, and that a player can select a time period to participate in a tournament in progress, paragraphs 12, 16-18, and 31. Thus the combination of Walker'163 and Shulman teaches determining a time duration the player may play in the time remaining in the tournament in progress.), the gaming machine is enabled to play in a tournament thereby allowing a player to use the gaming units to join the tournament (Walker discloses enabling the player to use the gaming units to play a game, cols. 2:3-27, 3:54-62 and Shulman discloses the game is a tournament, paragraphs 12, 16-18, and 31).

Applicant further argues that Shulman is directed to a series of poker games, and a poker can only end when there is only player left, the winner. Thus definite time duration is inconsistent regarding the poker tournament. However, regardless if the poker ends with only one player left, the poker tournament does come to an end. Therefore, there is a time duration in which a player can play for the remaining time period. Walker'163 is directed to a flat rate play of playing slot machines. In a game of slot, the time when a slot game ends may vary in time. Hence, different number of games can be played within a specified amount of time. Walker'163 is directed to a flat

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rate session in which a fee is paid for a predefined period of play. This predefined period of play can be time interval, or number of games interval (Walker'163, col. 3:10-17). Thus Shulman poker tournament does not require a consistent duration of time to be modified with Walker'163. This is also similar to Applicant's invention (Applicant's specification 2005/0043089, paragraph 271 discloses that time periods may be a length of time or number of games). Furthermore, there are many types of slot machines. Slot machines are not limited to a game in which random symbols from a set of reels are selected. There are also poker slot machines. Walker'163 indicates that the method of playing a flat rate play session can be implemented on video poker machines (col. 18:4-11). This suggests that Walker'163 flat rate session can be modified with Shulman's poker tournament game. Similarly, Applicant's specification also discloses that the invention is implemented of a video poker game (Fig. 23).

Regarding claim 63, Applicant argues it is unobvious incorporate Walker'173 of configuration games since there is no suggestion that downloading can occur while any game is in progress. However, a gaming device can be configured regardless if the tournament game is in progress or not. Configuration of gaming machine and the progress of the tournament are independent functions. A gaming machine can be configured regardless if the tournament is in progress and a tournament can be in progress regardless if the gaming machine is configured. Furthermore, as discussed above, Shulman discloses the method of participating in a tournament that is in progress (paragraphs 12, 16-18, and 31).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASSON H. YOO whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jasson H Yoo/
Examiner, Art Unit 3714